

The Vice-Chairperson, Marcia Gies, called the meeting of the Board of Zoning Appeals to order in Council Chambers, at 7:30 P.M., on Tuesday, February 17, 2004.

PRESENT: Kenneth Courtney
 Marcia Gies
 Michael Hutson
 Matthew Kovacs
 Thomas Strat

ALSO PRESENT: Mark Stimac, Director of Building & Zoning
 Susan Lancaster, Assistant City Attorney
 Pamela Pasternak, Recording Secretary

ABSENT: Christopher Fejes
 Mark Maxwell

ITEM #1 – APPROVAL OF MINUTES – MEETING OF JANUARY 20, 2004

Motion by Courtney
Supported by Kovacs

MOVED, to approve the minutes of the meeting of January 20, 2004 as written; and further MOVED, to rescind the motion made to change the date of this meeting.

Yeas: 4 – Gies, Hutson, Kovacs, Courtney
Abstain: 1 - Strat
Absent: 2 – Fejes, Maxwell

MOTION TO APPROVE THE MINUTES AND TO RESCIND THE MOTION MADE TO CHANGE THE DATE OF THE MEETING CARRIED

ITEM #2 – APPROVAL OF ITEM #3

Motion by Courtney
Supported by Hutson

MOVED, to approve Item #3 in accordance with the suggested resolution.

ITEM #3 – RENEWAL REQUESTED. VFW POST, 2375 E. MAPLE, for relief to maintain an existing legal non-conforming use building and relief of the 4'-6" high masonry wall required adjacent to off-street parking.

Mr. Stimac explained that the petitioner is requesting renewal of relief granted by this Board since 1969, to maintain a non-conforming building and use, and relief of the 4'-6" high masonry wall required at their off-street parking area. The use and structure are non-conforming in that they are located in a residential zoned district. The petitioner is

ITEM #3 – con't.

requesting to continue use of the structure as well as relief of the wall required at their off-street parking area. This item last appeared before this Board at the meeting of February 2001 and was granted a three (3) year renewal at that time. We have no complaints or objections on file.

MOVED, to grant VFW Post, 2375 E. Maple, a three (3) year renewal of relief to maintain a non-conforming building and use, and relief of the 4'-6" high masonry wall required at their off-street parking area.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.

Yeas: 5 – Gies, Hutson, Kovacs, Strat, Courtney
Absent: 2 – Fejes, Maxwell

MOTION TO APPROVE REQUEST CARRIED

ITEM #4 – VARIANCE REQUESTED. STEPHAN SLAVIK, 2949 VINEYARDS DR., for relief to construct a new, enclosed swimming pool addition on the rear of the existing home. This addition would result in an 18' rear yard setback where Section 30.10.01 requires a 45' rear yard setback in R-1A Zoning Districts.

Ms. Gies explained that the Board had received a letter from Mr. Slavik requesting this item be postponed until the meeting of March 16, 2004.

Motion by Kovacs
Supported by Courtney

MOVED, to postpone the request of Stephan Slavik, 2949 Vineyards Dr., for relief to construct a new, enclosed swimming pool addition on the rear of the existing home to the regularly scheduled meeting of March 16, 2004. This addition would result in an 18' rear yard setback where Section 30.10.01 requires a 45' rear yard setback in R-1A Zoning Districts.

- To allow the petitioner the opportunity to be present.

Yeas: 5 – Hutson, Kovacs, Strat, Courtney, Gies
Absent: 2 – Fejes, Maxwell

MOTION TO POSTPONE REQUEST UNTIL THE MEETING OF MARCH 16, 2004 CARRIED.

ITEM #5 – VARIANCE REQUESTED. A.J. BOWMAN, 5615 JOHN R., for relief of the Zoning Ordinance to construct a detached garage resulting in a 9.4' front yard setback to the south property line along Abbotsford where Section 30.10.04 requires a 30' minimum front yard setback in R-1C Zoning District.

Mr. Stimac explained that the petitioner is requesting relief of the Zoning Ordinance to construct a detached garage. This lot is a double front corner lot. As such, it has front yard setbacks along both John R. and Abbotsford. Section 30.10.04 requires a 30' minimum front yard setback in R-1C Zoning Districts. The site plan submitted indicates a 9.4' front yard setback from the proposed garage to the south property line along Abbotsford.

This item last appeared before this Board at the meeting of January 20, 2004 and was postponed to allow the petitioner the opportunity to be present.

Mr. Bowman and Mr. John Lapetrone from Miller Garage Company were present. Mr. Lapetrone stated that they feel this is the best location for this garage as the home is also setback 10' from Abbotsford and this garage will be in line with the home. Mr. Lapetrone also stated that Mr. Bowman may wish to add an addition at a later time to his home and this location for the garage will not interfere with the addition. Mr. Lapetrone went on to say that they are sure that there are no utilities located in this area and further there are fence posts along Abbotsford.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There is one (1) written approval on file. There are no written objections on file.

Mr. Courtney asked if an addition could be put on this home. Mr. Stimac explained that because this home is located 10' from the front property line and less than the required 10' side yard setback from the north property line it is considered a legal non-conforming structure. If an addition were placed on the back of the home with at least a 10' setback from the north property line and at least a 30' setback from the south property line it could be constructed without a variance.

Mr. Hutson asked approximately how wide this lot was and Mr. Stimac stated that it is 60' wide, which would allow for a 30' wide structure.

Mr. Bowman stated that he has lived there for eight (8) years and he is trying to maximize the greatest enjoyment and privacy for himself and his family. Mr. Bowman further stated that he has made many improvements to this property and believes by putting the garage in another location he would not be able to make the best use of this lot.

ITEM #5 – con't.

Mr. Hutson questioned Mr. Bowman about putting on an addition. Mr. Bowman said that he would like to add a patio or something similar to that. Mr. Hutson then asked if he could attach the garage to the home and Mr. Lapetrone stated that it would be too expensive to attach the garage. Mr. Hutson also expressed concern about putting in a patio and then eventually requiring a variance to enclose the structure and make it a four-season room. Mr. Bowman indicated that if he got this variance, he would be willing to sign a paper indicating that he would not add a sun-room or enclosed room to the back of this home.

Mr. Strat asked Mr. Bowman what the hardship was. Mr. Bowman stated that this a slab home without a basement and there is no storage. Mr. Strat then asked what options were available and why the garage needed to be placed in this location. Mr. Lapetrone said that because of the lot configuration and the location of the home, they feel this would be the best location for this structure. Mr. Lapetrone also said that if the garage was put in another location it would chop up the lot.

Mr. Courtney asked if the garage could be attached to the home and Mr. Lapetrone stated that this would be cost prohibitive. Mr. Lapetrone further indicated that it is much more cost efficient to put up a detached garage rather than an attached garage.

Mr. Courtney asked if a variance would be required if the garage was moved to the end of the house. Mr. Stimac indicated that a variance would not be required as long as it met the 10' setback from the north property line and the 30' setback to the south property line. This addition would not increase the non-conformity of the existing structure as long as it met the setback requirements.

Motion by Kovacs
Supported by Courtney

MOVED, to grant A.J. Bowman, 5615 John R., a variance to construct a detached garage resulting in a 9.4' front yard setback to the south property line along Abbotsford where Section 30.10.04 requires a 30' minimum front yard setback in the R-1C Zoning District.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property described in this petition.
- Literal enforcement of the Ordinance does preclude full enjoyment of the permitted use and makes conformance unnecessarily burdensome.

Yeas: 5 – Kovacs, Strat, Courtney, Gies, Hutson
Absent: 2 – Fejes, Maxwell

MOTION TO GRANT VARIANCE CARRIED

ITEM #6 – VARIANCE REQUESTED. MR. & MRS. GHASSAN NASRALLAH, 3794 MARK DR., for relief to convert a screened-in patio to an enclosed four-season room resulting in a rear yard setback of 22' where Section 34.20.03 of the Ordinance requires a 35' minimum rear yard setback in R-1C zoning in subdivisions utilizing the open space option.

Mr. Stimac explained that the petitioner is requesting relief to convert a screened-in patio to an enclosed four-season room. The site plan submitted indicates that the proposed four-season room will result in a rear yard setback of 22'. Section 34.20.03 of the Ordinance requires a 35' minimum rear yard setback in R-1C zoning in subdivisions developed utilizing the open space option.

The Board of Zoning Appeals granted approval for the reduced setback for a screen porch on August 16, 1988. Approval is now requested for conversion of this space to a fully enclosed room. A copy of the minutes from the August 16, 1988 meeting is enclosed for your reference.

Mr. Nasrallah was present and brought in four (4) written approvals as well as a picture of the present structure. Mr. Nasrallah stated that he feels new windows and siding will make this structure more aesthetically pleasing.

Mr. Kovacs asked why Mr. Nasrallah wanted to convert this over. Mr. Nasrallah said that the house inside is very dim and this room would not only make the home brighter looking, but would also increase the value of the home. Mr. Kovacs then asked what the hardship was. Mr. Nasrallah said that the home has very little light in it and believes the glass windows would help this situation and also thinks it would add to the selling value of the home. Mr. Kovacs then asked what the hardship with the land was. Mr. Courtney said that he feels the hardship is in the fact that a variance was granted in 1988 to allow for a screened in patio and does not feel there is much of a difference in allowing this structure to have glass windows.

Mr. Hutson asked if the exterior of the home was going to be changed in any way by adding either larger windows or a door wall. Mr. Nasrallah said that all he is going to do is add siding, which he believes will make the structure look better.

Mr. Kovacs asked if the foundation would have to be changed in any way. Mr. Stimac said that this structure has not been inspected, however, he felt that the slab would be structurally sound to convert this room to a four-season room. Mr. Stimac did point out that modifications would have to be made if heat was to be added.

Mr. Strat asked if the property to the east would be affected in any way. Mr. Stimac said that this structure would not affect the house next door as the structure is not being made any larger.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

ITEM #6 – con't.

There are five (5) written approvals on file. There are no written objections on file.

Mr. Hutson expressed concern over the fact that citizens have asked for variances for screened in porches and within a few years, usually come back to make this a more permanent structure. Mr. Kovacs agreed with Mr. Hutson and stated that he thinks this lot is too small for this large a variance, however, this variance was originally granted in 1988 and therefore the structure is already there.

Motion by Courtney
Supported by Kovacs

MOVED, to grant Mr. & Mrs. Ghassan Nasrallah, 3794 Mark Dr., a variance to convert a screened-in patio to an enclosed four-season room resulting in a rear yard setback of 22' where Section 34.20.03 of the Ordinance requires a 35' minimum rear yard setback in R-1C zoning in subdivisions utilizing the open space option.

- Variance will not increase the original variance granted in 1988.
- Variance is not contrary to public interest.

Yeas: 5 – Strat, Courtney, Gies, Hutson, Kovacs
Absent: 2 – Maxwell, Fejes

MOTION TO GRANT VARIANCE CARRIED

ITEM #7 – VARIANCE REQUESTED. MATHIAS WARMBRUNN, 4551 MILL POND, for relief to construct a family room addition resulting in a rear yard setback of 35.1' where Section 30.10.04 of the Zoning Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

Mr. Stimac explained that the petitioner is requesting relief of the rear yard setback to construct a family room addition. The site plan submitted indicates a proposed family room addition, which will result in a 35.1' rear yard setback. Section 30.10.04 of the Zoning Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

Mr. Warmbrunn was present and stated that he has lived in this home for approximately 4 years and he and his family love the area and his neighbors. Mr. Warmbrunn also said that his home is built on a slab, storage is at a minimum, and now that his children are getting bigger they are running out of room.

Mr. Courtney asked if they have looked at larger homes and Mr. Warmbrunn said that they like this subdivision because of the close proximity of the schools and would rather not move.

ITEM #7 – con't.

Ms. Gies opened the Public Hearing. No one wished to be heard and the Public Hearing was closed.

There are two (2) written approvals on file. There are no written objections.

Mr. Hutson said that he could understand Mr. Warmbrunn's request for a variance and was sympathetic to his request.

Mr. Kovacs stated that he thought this was a very minimal variance request and felt that this property is unique in that it backs up to school property.

Mr. Stimac explained that when this subdivision was originally built, the R-1C setbacks were 40' for the front yard setback and 30' to the rear yard setback. In the 70s the Ordinance was changed and the setbacks were reversed. An exception was put into the Ordinance, Note 'P', which said that if the predominant setback along the street was 40', you could have a 35' rear yard setback. In 1993 an amendment was made to delete Note P, due to the fact that it was felt that the Zoning Board of Appeals would address variance requests regarding setbacks.

Mr. Strat asked if this addition could have been built with the original setback requirements and Mr. Stimac stated that it could have been built under the original setbacks and also when Note P was in place.

Motion by Kovacs
Supported by Courtney

MOVED, to grant Mathias Warmbrunn, 4551 Mill Pond a variance to construct a family room addition resulting in a rear yard setback of 35.1' where Section 30.10.04 of the Zoning Ordinance requires a 40' minimum rear yard setback in R-1C Zoning Districts.

- Variance is not contrary to public interest.
- Variance will not have an adverse effect to surrounding property.
- Variance applies only to the property described in the application.
- Literal enforcement of the Ordinance makes conforming unnecessarily burdensome.

Yeas: 5 – Strat, Courtney, Gies, Hutson, Kovacs
Absent: 2 – Maxwell, Fejes

MOTION TO GRANT VARIANCE CARRIED

Mr. Hutson commended Mr. Stimac on the fact that he has taken the time to provide background information on the changes in the Ordinance, which allow the Board to make a decision.

Motion by Courtney
Supported by Kovacs

MOVED, to excuse Mr. Maxwell and Mr. Fejes from attendance at this meeting.

Yeas: 5 – Courtney, Gies, Hutson, Kovacs, Strat
Absent: 2 – Fejes, Maxwell

MOTION TO EXCUSE MR. MAXWELL AND MR. FEJES CARRIED

The Board of Zoning Appeals meeting adjourned at 8:11 P.M.



Marcia Gies, Vice Chairperson



Pamela Pasternak, Recording Secretary